



# **San Diego City Attorney**

## **MICHAEL J. AGUIRRE**

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### **NEWS RELEASE**

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**Contact: Communications Division (619) 235-5725**

### **CITY'S LANDMARK PENSION CASE READY FOR APPELLATE COURT REVIEW**

**San Diego, CA**—The San Diego City Attorney's Office recently filed its reply appellate brief to the California State 4<sup>th</sup> District Court of Appeals in the City's landmark pension case, the legal effort to rescind employee pension benefits that were approved but not funded in 1996 and 2002 by the San Diego City Council. The case is now fully briefed and both sides await notice of oral arguments from the Court.

On January 18, 2007, a lower court ruled that the majority of pension benefits granted to City employees in 1996 and 2002 could not be reversed based on legal technicalities. The Court did not rule on the merits of the case, i.e. the legality of the benefits. City Attorney Michael Aguirre immediately appealed the ruling.

"San Diego taxpayers need to have their day in court," remarked Aguirre. "I am not the only one who contends the benefits were illegal. The U.S. Securities & Exchange Commission's investigation, the City's own Kroll investigation, even the outside counsel for the San Diego City Employees' Retirement System (SDCERS) all concluded that the benefits are illegal," the City Attorney added.

Aguirre sued to rescind the benefits based on violations of California Government Code section 1090 conflict of interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance.

The litigation sought to reverse new pension benefits that were granted under the 1996 Manager's Proposal I, which included an increase in the retirement factor used to determine retirement benefits; the ability for employees to purchase up to five years of retirement credits below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.

It also sought to rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby certain Presidents of the City's recognized labor unions could have their Union Presidents earnings counted as though they were City salaries for the purposes of retirement.

(MORE)

To view the court documents, visit [www.sandiegocityattorney.org](http://www.sandiegocityattorney.org), click on the homepage “You Decide: Is the City’s Pension Debt Illegal?” By Monday, a poll will also be included to allow readers to weigh in on the issue.

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